MONTANA LEGISLATIVE HISTORY

Chapter 545 1981

Bill H _____ S 459 Original bill & history X C

H. Committee on FISH & GAME

Hearing Date(s) ~~2/11~~ 3/3 X C
+ EXEC ACTION

_____ ____C

_____ ____C

_____ ____C

Date Out _____ ____C

S. Committee on FISH & GAME

Hearing Date(s) ~~2/5~~ 2/14 X C
& EXEC ACTION

_____ ____C

_____ ____C

_____ ____C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

Amended at request of Governor

FORTY-SEVENTH LEGISLATIVE SESSION

1981

SENATE BILLS COMMITTEE ON FISH AND GAME

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
18	1-5-81	2-5;10;12;14	2-14-81		2-14-81				
51	1-5-81	2-10;12;14;17	2-14-81		2-14-81				
103	1-12-81	2-5;12	2-12-81	2-12-81					
159	1-22-81	2-3;12	2-12-81	2-12-81					
276	1-30-81	2-12;17	2-17-81			2-17-81			
320	1-30-81	2-12;17	2-17-81	2-17-81					
413	2-9-81	2-14;17	2-17-81			2-17-81			
459	2-13-81	2-12;14	2-14-81			2-14-81			

(Use Separate Sheet for Senate, House Bills, and Resolutions)

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MAY 5 1981
OF MONTANA

SENATE BILL NO. 459

INTRODUCED BY E. SMITH, LEE, GALT

BY REQUEST OF
THE SENATE COMMITTEE ON FISH AND GAME

IN THE SENATE

February 13, 1981	Introduced and referred to Committee on Fish and Game.
February 16, 1981	Committee recommend bill do pass as amended. Report adopted.
February 17, 1981	Bill printed and placed on members' desks.
February 18, 1981	Second reading, do pass as amended.
	Segregated.
February 19, 1981	Second reading, do pass as amended.
February 21, 1981	Correctly engrossed.
February 23, 1981	Third reading, passed. Ayes, 46; Noes, 1. Transmitted to House.

IN THE HOUSE

February 23, 1981	Introduced and referred to Committee on Judiciary.
February 24, 1981	Rereferred to Committee on Fish and Game.
March 4, 1981	Committee recommend bill be concurred in as amended. Report adopted.

IN THE SENATE

April 22, 1981

Returned from House. Sent to enrolling.

Reported correctly enrolled.

LC 1423/01

SENATE BILL NO. 459

INTRODUCED BY Smith Lee Hall

BY REQUEST OF

THE SENATE COMMITTEE ON FISH AND GAME

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS GOVERNING OUTFITTERS AND GUIDES IN THE STATE OF MONTANA; AMENDING SECTIONS 2-15-3403, 87-4-101 THROUGH 87-4-106, 87-4-121 THROUGH 87-4-128, 87-4-130, 87-4-131, AND 87-4-141 THROUGH 87-4-144, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-15-3403, MCA, is amended to read:

"2-15-3403. Montana outfitters' council. (1) There is a Montana outfitters' council.

(2) The council consists of seven members. Each member shall be a licensed outfitter and shall represent one of the seven fish and game administrative districts. A member shall be selected by the licensed outfitters residing in that district by election at an annual meeting of the outfitters to be held in the city where the ~~district~~ regional headquarters ~~at 1:00 p.m. on the second Friday~~ is located during the month of March. A majority vote cast by written ballot of all the outfitters in attendance at the meeting shall determine the member delegate from the district. At the election an alternate member delegate shall also be elected by written ballot to serve if the ~~first-elected~~ member delegate is unable to act.

(3) The members shall serve staggered 3-year terms and take office on the day they are elected.

(4) The council is allocated to the department.

(5) The council is not subject to the provisions of 2-15-122."

Section 2. Section 87-4-101, MCA, is amended to read:

"87-4-101. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

~~(1) "Advisory council" means the Montana outfitters' council provided for in 2-15-3403.~~

~~(2)~~(1) "License year" means that period commencing ~~May 1~~ January 1 and ending ~~April 30~~ December 31 of the next same year.

~~(3)~~(2) "Nonresident" means a person other than a resident.

~~(4)~~(3) "Outfitter" means any person, persons, company, or corporation who:

(a) engages in the business of outfitting for hunting or fishing parties, as the term is commonly understood;

(b) for consideration provides any saddle or pack animal or personal service for hunting or fishing parties or

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camping equipment, vehicles, or other conveyance, except boats, for any person to hunt, trap, capture, take, or kill any game and accompanies such a party or person on an expedition for any of these purposes;

(c) for consideration furnishes a boat or other floating craft and accompanies any person for the purpose of catching fish; or

(d) for consideration aids or assists any person in locating or pursuing any game animal.

(4) "Outfitters' council" means the Montana outfitters' council provided for in 2-15-3403.

(5) "Professional guide" means a person who is an employee of an outfitter and who furnishes only personal guiding services in assisting a person to hunt or take game animals or fish and who does not furnish any facilities, transportation, or equipment.

(6) "Resident" means a person who qualifies for a resident Montana hunting or fishing license under 87-2-102.

~~(7) "Resident guide" means a resident who guides resident or nonresident friends for the purpose of hunting game animals without compensation.~~"

Section 3. Section 87-4-102, MCA, is amended to read:

"87-4-102. Determination of what constitutes consideration. The providing of the services, property, or equipment mentioned in 87-4-101(4) or the advertising of

services to assist persons to hunt, pursue, or take wildlife or to fish shall be conclusively presumed to have been for consideration for the purposes of this part ~~if the same or any thereof are provided by any person, company, or corporation for more than two parties or two other persons during any calendar year or on more than two occasions during any such calendar year.~~"

Section 4. Section 87-4-103, MCA, is amended to read:

"87-4-103. Responsibility for violations of law. (1) Any person accompanying a hunting or fishing party as an outfitter or agent or employee of such outfitter shall be equally responsible with any person or party employing him as an outfitter for any violation of ~~the law~~ fish and game laws; any such outfitter or employee of such outfitter who shall willfully fail to or refuse to report any violation of ~~the law~~ fish and game laws shall be liable to the penalties as herein provided. If any professional guide commits any violation of the laws or applicable regulations relating to fish and game, outfitting, or guiding with actual or implied knowledge of an outfitter then employing such guide, the outfitter is legally responsible for such violation for all purposes under the laws or regulations if the outfitter fails to report any such violation to proper authority.

(2) No person may hire or retain any outfitter or professional guide unless the outfitter or professional

guide is currently licensed in accordance with the laws of the state of Montana."

Section 5. Section 87-4-104, MCA, is amended to read:

"87-4-104. Powers and duties of department relating to outfitters and guides. The department shall:

(1) prepare and publish an information pamphlet which contains the names and addresses of all licensed outfitters. This pamphlet shall be available for free distribution as early as possible during each calendar year but not later than the second Friday in March. The pamphlet shall contain the names and addresses of only those outfitters who have a valid license for the current license year. The costs of publication of the pamphlet shall be paid from the earmarked revenue fund, fish and game account.

(2) cooperate with the federal government through its appropriate agencies or instrumentalities in matters of mutual concern regarding the business of outfitting and guiding in Montana;

(3) establish a minimum of two meetings annually with the ~~advisory~~ outfitters' council;

(4) consult with the ~~advisory~~ outfitters' council to develop policy concerning the administration of outfitting;

(5) designate a warden ~~or ex-officio warden~~ with no conflict of interest whose primary duties are to administer outfitting and guiding laws and regulations."

Section 6. Section 87-4-105, MCA, is amended to read:

"87-4-105. Outfitters' council. The council shall have the authority and duty to make recommendations to the department and the director as to:

(1) outfitter standards and professional guide standards;

(2) rules of procedures and rules to effectuate this part, including but not limited to rules prescribing all requisite qualifications for license. These qualifications shall include training, experience, knowledge of rules of governmental bodies pertaining to outfitting, and condition and type of gear and equipment.

(3) hearings and proceedings to suspend or revoke licenses of outfitters and professional guides and to recommend suspension or revocation of licenses for due cause;

(4) any reasonable rules, not in conflict with this part, necessary for safeguarding the health, safety, and welfare of those persons utilizing the services of outfitters and for the protection of landowners and the general public."

Section 7. Section 87-4-106, MCA, is amended to read:

"87-4-106. Authorization for rules. The department may adopt, promulgate, and enforce rules recommended by the ~~advisory~~ outfitters' council as provided in 87-4-105 and all

other rules it may consider proper for the administration and enforcement of the provisions of this part and the regulation of outfitting and guiding to provide for the services to the public."

Section 8. Section 87-4-121, MCA, is amended to read:

"87-4-121. License required -- services performed -- standards. (1) No person may act as an outfitter, ~~or~~ professional guide, ~~or resident guide~~ or advertise as an outfitter without first securing a license in accordance with the provisions of this part.

(2) Whenever an outfitter is engaged by any person ~~or a resident guide takes out nonresident friends~~, the outfitter ~~or resident guide~~ shall keep and submit records as required by the department.

(3) Outfitters and their employees may not shoot, kill, or take big game animals for or in competition with those employing them while acting under employment as an outfitter.

(4) Outfitters ~~and resident guides~~ utilizing lands under the control of the United States government shall obtain the proper permits required by the government office responsible for the area in which the outfitter ~~or resident~~ guide intends to operate and shall comply with environmental protection standards established for these lands.

(5) An outfitter may not willfully and substantially

misrepresent his facilities, prices, equipment, services, or hunting or fishing opportunities.

(6) Outfitters and their employees shall take every reasonable measure to provide their advertised services to their clients."

Section 9. Section 87-4-122, MCA, is amended to read:

"87-4-122. Outfitter's qualifications. Each applicant for and holder of an outfitter's license or any renewal thereof shall, in the opinion of the director, meet the following qualifications:

(1) be a person of at least 18 years of age, ~~in possession of all natural faculties, of ordinary intelligence, and in such physical condition as to be able~~ who is physically capable and mentally competent to perform his duties as an outfitter;

(2) be a citizen of the United States and a resident of Montana ~~for a full 2 years, unless the residency requirement is waived by the department~~;

(3) own or hold under written lease or represent a company, corporation, or partnership who owns or holds under written lease the equipment and facilities as are necessary to provide the services advertised, contracted for, or agreed upon between the outfitter and his clients (all equipment and facilities shall be subject to inspection at all reasonable times and places by the department or its

designated agent);

(4) be a person who has demonstrated a respect for and compliance with the laws of any state or of the United States and all rules promulgated thereunder as to matters of fish and game, conservation of natural resources, and preservation of the natural ecosystem without pollution thereof;

(5) have not been convicted or forfeited bond of $100 or more on more than one violation of the fish and game laws or applicable regulations of any state or the United States within the past 5 years;

(6) have not, at any time, practiced fraud, deception, or material misrepresentation in procuring any previous outfitter's, professional or guide's, or conservation license from the state of Montana;

(7) have not, at any time, promulgated any false or misleading advertising relating to the business of outfitting;

(8) have not been finally adjudged by a court of law guilty of any substantial breach of written or oral contract with any person utilizing the applicant's services as an outfitter or professional guide during the license year immediately preceding that for which the application is made;

(9) have not committed any negligent act or misconduct

while acting as an outfitter or professional guide ~~which negligence or misconduct~~ that caused a danger or unreasonable risk of danger to person or property of any client of such outfitter or professional guide during the license year immediately preceding that for which the application is made;

(10) have not, at any time, ~~been convicted~~ pleaded guilty to or been adjudged by a court guilty of a felony, unless civil rights have been restored pursuant to law. No person may apply for or hold an outfitter's license during any period of time in which a ~~deferred~~ sentence has been ~~imposed~~ deferred or suspended for a felony.

(11) have substantially complied with all department regulations and state and federal laws concerning outfitters and professional guides, if the applicant has previously held a license as an outfitter or professional guide."

Section 10. Section 87-4-123, MCA, is amended to read:

"87-4-123. Professional guide's qualifications. (1) An applicant for a professional guide's license shall meet the following requirements:

(a) be a person of at least 18 years of age~~, in possession of all natural faculties, of ordinary intelligence, and in such physical condition as to be able~~ who is physically capable and mentally competent to perform his duties as a professional guide;

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(b) be a citizen of the United States ~~and a resident of Montana as defined in 87-4-101~~;

(c) be endorsed and recommended by an outfitter with a valid license~~.~~;

(d) have not been convicted or forfeited bond of $100 or more on more than one violation of the fish and game laws or applicable regulations of the state of Montana or the United States within the past 5 years;

(e) have not committed any negligent act or misconduct while acting as a guide that caused an accident or injury to person or property of any client of an outfitter during the license year immediately preceding that for which the application is made;

(f) have not, at any time, pleaded guilty to or been adjudged by a court guilty of a felony, unless civil rights have been restored pursuant to law. No person may apply for or hold a professional guide's license during any period of time in which a sentence has been deferred or suspended for a felony.

(2) A ~~resident~~ professional guide shall have been issued a valid ~~resident~~ wildlife conservation license."

Section 11. Section 87-4-124, MCA, is amended to read:

"87-4-124. Application. (1) Each applicant for an outfitter's or professional guide's license shall make application for license upon a form to be prescribed and

furnished by the department which shall include:

(a) the applicant's full name, residence, address, conservation license number, driver's license number, birth date, physical description, and telephone number;

(b) the address of his principal place of business in the state of Montana;

(c) the amount and kind of property and equipment owned and used in the outfitting business of the applicant, if an outfitter's license application is involved;

(d) the experience of the applicant, including years of experience as an outfitter or professional guide, knowledge of areas in which he has operated and intends to operate, and ability to cope with weather conditions and terrain;

(e) a signed statement of the licensed outfitter by whom the professional guide is to be employed that the professional guide is in fact to be employed by such outfitter and stating that the outfitter recommends the applicant for his qualifications;

(f) a ~~statement~~ an affidavit on a form provided by the department by a ~~warden~~ the outfitter to the director that the equipment listed on the application has ~~been inspected by the warden and that the same~~ is in fact owned or leased by the applicant, is in good operating condition, and is sufficient and satisfactory for the services advertised or

contemplated to be performed by such applicant;

(g) a statement of the maximum number of guests to be taken at any one time;

(h) the written approval of the ~~rangers--in-whose district~~ appropriate federal agency or landowner on whose lands he will establish hunting camps~~,--if-the-applicant intends-to-outfit-on-a-national-forest~~.

(2) Applications for outfitter's license shall be in the name of an individual person only. Applications involving corporations or partnerships shall be made by one individual person who qualifies under the provisions of this part; any license issued pursuant thereto shall be in the name of that person; and the license shall specifically state that the same is issued for the use and benefit of the named corporation or partnership involved. Any revocation or suspension of such a license is binding upon the individual person and the partnership or corporation for the use and benefit of which the license was originally issued.

(3) Application shall be made to and filed with the director.

(4) Only one application for an outfitter's or professional guide's license may be made any one license year. If any application is denied, subsequent applications by the same applicant for the license year involved are void, except as provided in 87-4-129."

Section 12. Section 87-4-125, MCA, is amended to read:

"87-4-125. Outfitter's examination. Each applicant for an outfitter's license shall pass a standard examination administered by the director or an agent designated by him, which examination shall require general and sufficient knowledge displaying and indicating ability to perform the services contemplated with efficiency and with safety to the health and welfare of persons employing such services. The examination shall test the applicant's knowledge of subjects which shall apply to the type of license applied for in the following subjects:

(1) federal and state fish and game laws and regulations;

(2) practical woodsmanship;

(3) general knowledge of big game;

(4) field preparation of trophies;

(5) care of game meat;

(6) use of outfitter's gear as shown listed on the application;

(7) knowledge of area and terrain;

(8) knowledge of firearms;

(9) federal and state regulations as applicable to outfitting;

(10) ~~practices~~ first aid;

(11) boat safety;

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(12) water safety;

(13) care and safety of livestock."

Section 13. Section 87-4-126, MCA, is amended to read:

"87-4-126. Residence requirements -- waiver and reciprocity. (1) Residence requirements for procuring an outfitter's license are waived as to persons who are ~~citizens~~ bona fide residents of a common boundary state and of a common county thereof to the same extent the home state of the applicant waives such requirements for the residents of Montana, except for fee.

(2) For the purpose of obtaining a professional guide's license only, nonresident professional guides employed by resident outfitters shall be considered resident professional guides."

Section 14. Section 87-4-127, MCA, is amended to read:

"87-4-127. Fees. (1) Applications shall be accompanied by a license fee as herein stipulated, which will be refunded if and when the application is denied:

(a) resident outfitter's license fee.....$50;

(b) resident professional guide's fee.....$15;

(c) nonresident outfitter's license fee.....$150;

(d) nonresident professional guide's fee.....$100.

~~(2) A resident guide's license is a valid Montana wildlife conservation license.~~

~~(3)~~(2) If the nonresident resides in a state requiring

residents of the state of Montana to pay in excess of such amounts for a similar license, the fee for such nonresident ~~outfitters~~ outfitter's or ~~guides~~ professional guide's license shall be the same amount as the higher fee charged in the state where the nonresident resides. All fees collected under this part shall be deposited as provided in 87-1-601.

~~(4)~~(3) The license fee shall be used to investigate the applicant, to enforce this part, and for administrative costs."

Section 15. Section 87-4-128, MCA, is amended to read:

"87-4-128. Investigation of applicant -- issuance or denial of license. (1) The director in his discretion may cause to be made such additional investigation and inquiry relative to the applicant for outfitter's or professional guide's license and an applicant's qualifications as he considers advisable.

(2) The director may deny or refuse to issue any new license or to renew any previous license if, in his opinion, the applicant does not meet the qualifications herein stated. In the event that any application for license is denied or refused, the director shall immediately notify the applicant, setting forth in the notice the grounds upon which the denial or refusal is based.

(3) Final decision as to issuance of renewal licenses

shall be made not later than 30 days from the date of receipt of the completed application for renewal and not later than 90 days from the date of receipt of a completed application for a new license.

(4) A licensee in good standing is entitled to a new license for the ensuing license year upon complying with the provisions of this part and completing an application for license renewal on a form provided by the department but is exempt from having to retake the written examination.

(5) An outfitter licensee must make an application for license renewal by January 1 of the license year. A penalty fee of $50 will be charged in addition to the regular resident or nonresident outfitter's license if the application for such license is not completed and made by January 1 of the license year. This subsection does not apply to a new applicant for an outfitter's license."

Section 16. Section 87-4-130, MCA, is amended to read:

"87-4-130. Professional guide's license. (1) For the purposes of this part, a person may serve as a professional guide under his employer's license, after submitting his application with the proper license fee, until the license is issued ~~or for 10 days after notification of the rejection of the license~~ or denied.

(2) To be valid, a professional guide's license must bear the signature and outfitter's license number of an the

endorsing outfitter and is valid only while the holder of such license is employed by an the endorsing outfitter."

Section 17. Section 87-4-131, MCA, is amended to read:

"87-4-131. Transfer or amendment of outfitter's license. (1) No outfitter's license may be transferred during any license year.

(2) An individual person may, upon proper showing, have his outfitter's license amended to indicate that he is holding the license for the use and benefit of a named partnership or corporation.

(3) If a licensed outfitter dies, the outfitter's license shall be considered to be part of the estate of the deceased outfitter and, subject to approval by the director, shall allow the immediate members of the family to outfit for the deceased outfitter's unexpired license year until the heirs or personal representative of the estate sells the outfitting business or obtains relicensure therefor."

Section 18. Section 87-4-141, MCA, is amended to read:

"87-4-141. Grounds for suspension or revocation of license. Every license or right to apply for and hold such license may be suspended or revoked upon any of the following grounds:

(1) having ceased to meet all of the qualifications for holding a license;

(2) fraud or deception in procuring a license;

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(3) fraudulent, untruthful, or misleading advertising;

(4) ~~conviction~~ having pleaded guilty to or been adjudged by a court guilty of a felony, ~~until~~ including a case in which the sentence is suspended or imposition of the sentence is deferred, unless civil rights are have been restored ~~or until time of any deferred sentence for a felony has expired~~ pursuant to law;

(5) two convictions or bond forfeitures of $100 or more as to violations of the fish and game or outfitting laws or regulations of the state of Montana or of the United States within the past 5 years;

(6) a substantial breach of any contract with any person utilizing the services of the license holder provided that such breach is established as a matter of final judgment in a court of law;

(7) the willful employment of an unlicensed professional guide by an outfitter;

(8) negligence or misconduct while acting as an outfitter or professional guide ~~which negligence or misconduct~~ that causes ~~a danger or unreasonable risk of danger~~ an accident or injury to person or property of any client of such outfitter or professional guide."

Section 19. Section 87-4-142, MCA, is amended to read:

"87-4-142. Procedure for suspension or revocation of license -- reissuance. (1) Proceedings for the revocation or

suspension of a license issued hereunder may be taken upon charge or recommendation of any person. All such charges or recommendations must be made in writing, must state the facts upon which such charge or recommendation is based, and must be signed and sworn to by the person making the charge or recommendation. Any such charge or recommendation shall be filed with the director. Thereupon, the director shall initiate a preliminary investigation of all facts in connection with the charge.

(2) A copy of all information shall be transmitted to the ~~advisory~~ outfitters' council. The ~~advisory~~ outfitters' council may make recommendation as to the action to be taken. Any such recommendation shall be made in writing and delivered to the director within 20 days after date of transmittal of such information to the council.

(3) If the accusation be deemed to be unfounded or trivial, the director shall dismiss the same and will advise the licensee charged and the complaining party of the action. Should the director determine the charge or recommendation to have good cause and to be sufficiently founded, he shall ~~recommend to the commission that the same be approved and the revocation or suspension be effected~~ appoint a hearing officer who shall conduct a hearing on such charges in accordance with the Montana Administrative Procedure Act.

(4) The director thereupon shall cause a copy of the charge, recommendation of the council, and a record of the investigation to be served upon the licensee involved not less than 20 days prior to the day set for hearing thereon, which said hearing shall be before ~~the--commission~~ an appointed hearing officer at a time and place set by such ~~commission~~ officer. At the hearing, the licensee involved may be represented by counsel. After full, fair, and impartial hearing, the ~~commission~~ director may suspend the accused's license or his right to hold a license for a period not to exceed 3 years, may order the license revoked, or may dismiss the charge or recommendation based upon the facts shown at the hearing.

(5) A revoked or suspended license may be reissued or reinstated at the discretion of the ~~commission~~ director."

Section 20. Section 87-4-143, MCA, is amended to read:

"87-4-143. Appeal procedure. Any person who feels aggrieved by the denial of issuance of a license or suspension or revocation of a license as an outfitter or professional guide may appeal to the district court of the county of his residence within 30 days after the date of such action by filing with the clerk of said court a notice of appeal briefly setting forth the action complained of and appealed from. Summons and copy of the notice of appeal shall be served on the ~~commission~~ director, and all

proceedings shall conform to the code of civil procedure of the state of Montana. Upon such appeal, the action shall be by trial de novo, and upon demand in writing, either party shall be entitled to trial by jury. The court may sustain or reverse the action of the ~~commission~~ director or take such other action as the court may deem just and proper. If the ~~commission~~ director or the court has ordered a stay of any revocation or suspension and the ~~commission's~~ director's revocation or suspension is thereafter sustained by the court, the period of suspension or revocation shall begin with the first day after the court's action sustaining the decision of the ~~commission~~ director."

Section 21. Section 87-4-144, MCA, is amended to read:

"87-4-144. Enforcement. The warden ~~or--ex---officio~~ warden designated by the department to primarily administer outfitting and guiding laws and rules, other wardens, and all peace officers shall enforce this part."

-End-

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Chairman Smith said that when House Bill 420 was considered last session, the committee had no intention of changing the definition of pheasant and creating a problem for the game farm operators. He stated that when the problem was called to his attention he called the Department of Fish, Wildlife and Parks and he believes that the department corrected the problem. Chairman Smith spoke of Senate Bill 18 dealing with the regulation of private game animal shooting preserves and said that the governor's interim task force would probably study and define the issues raised in this Senate Bill 413 along with other concerns of the game farm operators.

Chairman Smith recognized Senator Berg who asked Jim Flynn, department director, if this bill were included in the interim study, what would happen under the present codes for the next two years? Mr. Flynn replied that legally the department would be obligated to act under the same authority that it has in the past. He said the department wants to monitor the traffic, not to hinder the game farm operators. He said that within the legal constraints that the department now has it will endeavor to ensure that the bureaucratic response is not a problem to the game farm operators.

Senator Severson said that he would like to see the bill passed with the amendments as proposed, and perhaps still include it in the interim study.

The hearing on Senate Bill 413 was closed.

CONSIDERATION OF SENATE BILL 459, "An act to generally revise the laws governing outfitters and guides in the state of Montana; ...."

Chairman Smith said that this is a committee bill which has been reviewed once. Some changes have been made but they were not significant. He called on legislative researcher Andrea Merrill to explain the changes which were made.

PROPONENTS OF SENATE BILL 459. Mr. Tag Rittel, representing the Montana Outfitters and Guides Association, spoke in favor of the bill. He stated that from a personal standpoint, that portion of the bill that states an outfitter must be a United States citizen was objectionable to him because his wife is a Canadian citizen. On page 18, subsection 3, it is stated that in the event an outfitter dies, his heirs shall be allowed to outfit for the deceased for the remainder of the license year or until the business is sold or relicensure is obtained.

Mr. Bob Teague, representing the Montana Outfitter Advisory Council, spoke in favor of the bill.

Mr. Jim Flynn, Director of the Department of Fish, Wildlife and Parks, spoke in favor of the bill. He said that page 1,

lines 16 and 17, refers to the advisory council consisting of seven members, all of whom must be licensed outfitters. This council also establishes the standards for guides and the department has no strong feeling whether or not guides should be included in the council membership.

Mr. Flynn also spoke about the definition of the word "consideration" on pages 3 and 4. He said the department's interpretation of that would be that this change will have an effect on providing services or equipment to organized groups, clubs or friends.

Mr. Flynn commented on the application for license procedure, page 17, lines 22 and 23. He said a determination by the department may take up to 90 days. It is hoped that it would not take that long; however, a guide may be able to perform guiding duties during that period of time or until the department made its determination.

There were no opponents to Senate Bill 459.

ACTION ON SENATE BILL 459. Senator Eck moved that SB 459 be amended as follows: page 8, line 16, strike "a citizen of the United States and"; the motion carried unanimously.

Senator Eck moved that SB 459 be amended as follows: page 11, line 1, strike subsection (b) in its entirety and renumber all subsequent subsections. The motion carried unanimously.

Senator Severson made a motion that SB 459 do pass as amended. A roll call vote was taken with all five members present voting yes.

ACTION ON SENATE BILL 18, "An act to provide for the regulation of private game animal shooting preserves."

Senator Berg made a motion that SB 18 do not pass. A roll call vote was taken with all five members present voting yes.

ACTION ON SENATE BILL 51, "An act to provide compensation for qualifying fish and game wardens for hours worked in excess of 40 hours per week by paying a premium..."

Senator Jacobson made a motion that SB 51 do not pass. A roll call vote was taken with all five members present voting yes.

Legislative Researcher Andrea Merrill, at the request of the committee, drafted a letter to the director of the Department of Fish, Wildlife and Parks stating the committee's concerns and desires in the matter of premium pay for wardens. The content of the letter was approved and will be retyped for signature by all committee members. (Attachment #7.)

ROLL CALL

FISH AND GAME COMMITTEE

47th LEGISLATIVE SESSION - - 1981 Date 2-14-81

NAME	PRESENT	ABSENT	EXCUSED
Smith	✓		
Galt		✓	
Severson	✓		
Lee		✓	
Eck	✓		
Berg	✓		
Jacobson	✓		

Each day attach to minutes.

NAME: TAG KITTEL DATE: 2/14/81

ADDRESS: BLACKTAIL RANCH

PHONE: 235-4330

REPRESENTING WHOM? MONTANA OUTFITTERS & GUIDES ASSOC

APPEARING ON WHICH PROPOSAL: SENATE BILL 459

DO YOU: SUPPORT? of AMEND? _____ OPPOSE? _____

COMMENTS: WE HELPED DRAW UP THIS BILL WHICH IS A HOUSE CLEANING BILL OF THE ORIGINAL LAW. M.O.G.A SUPPORTS (OUTFITTERS) THIS BILL WITHOUT ANY AMENDMENTS. AFTER LEAVING THIS COMMITTEE HEARING

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

DATE _____

COMMITTEE ON _____ BILL NO. _____

VISITOR'S REGISTER

NAME	REPRESENTING	Check One: Support	Oppose
C. FREDRICK FREY	Self and Western Montana Aviculturists	✓	
Douglas Wright	Self and Western Montana Aviculturists	✓	
Jim Flynn	Dept FWP	SB 459 ✓	SB 41 ✓
David Mcjavs	Blunt Fork Game Farm & Montana Aviculturists	SB 413 2	
Lisa Kittel	Montana Outfitters and Guides Assoc.	SB 459	
Bob R Teegarden	Outfitter Council	✓	

(Please leave prepared statement with Secretary)

STANDING COMMITTEE REPORT

FEBRUARY 14 19 81

MR. PRESIDENT

We, your committee on SENATE FISH AND GAME

having had under consideration SENATE Bill No. 459

Respectfully report as follows: That SENATE Bill No. 459

be amended as follows:

1. Page 8, line 16:
   Strike: "a citizen of the United States and"

2. Page 11, line 1:
   Strike: subsection (b) in its entirety
   Renumber: all subsequent subsections

And, as amended,

DO PASS

G.A.

Chairman.

STATE PUB. CO.
Helena, Mont.

Total 49

Noes: None.
Total 0

Excused: Manning.
Total 1

Absent or not voting: None.
Total 0

That Senate Bill No. 422 do pass by the following vote:

Ayes: Aklestad, Anderson, Berg, Blaylock, Boylan, B. Brown, S. Brown, Conover, Crippen, Dover, Eck, Elliott, Etchart, Galt, Goodover, Graham, Hafferman, Haffey, Hager, Halligan, Hammond, Hazelbaker, Healy, Himsl, Jacobson, Johnson, Keating, Kolstad, Lee, Manley, Mazurek, McCallum, Nelson, Norman, Ochsner, O'Hara, Olson, Regan, Ryan, Severson, Smith, Stephens, Stimatz, Story, Thomas, Towe, Tveit, Van Valkenburg, Mr. President.
Total 49

Noes: None.
Total 0

Excused: Manning.
Total 1

Absent or not voting: None.
Total 0

That Senate Bill No. 440 do pass by the following vote:

Ayes: Aklestad, Anderson, Berg, Blaylock, Boylan, B. Brown, S. Brown, Conover, Crippen, Dover, Eck, Elliott, Etchart, Galt, Goodover, Graham, Hafferman, Haffey, Hager, Halligan, Hammond, Hazelbaker, Healy, Himsl, Jacobson, Johnson, Keating, Kolstad, Lee, Manley, Mazurek, McCallum, Nelson, Norman, Ochsner, O'Hara, Olson, Regan, Ryan, Severson, Smith, Stephens, Stimatz, Story, Thomas, Towe, Tveit, Van Valkenburg, Mr. President.
Total 49

Noes: None.
Total 0

Excused: Manning.
Total 1

Absent or not voting: None.
Total 0

That Senate Bill No. 456 do pass by the following vote:

Ayes: Aklestad, Anderson, Berg, Blaylock, Boylan, B. Brown, S. Brown, Conover, Crippen, Dover, Eck, Elliott, Etchart, Galt, Goodover, Graham, Hafferman, Haffey, Hager, Halligan, Hammond, Hazelbaker, Healy, Himsl, Jacobson, Johnson, Keating, Kolstad, Lee, Manley, Mazurek, McCallum, Nelson, Norman, Ochsner, O'Hara, Olson, Regan, Ryan, Severson, Smith, Stephens, Stimatz, Story, Thomas, Towe, Tveit, Van Valkenburg, Mr. President.
Total 49

Noes: None.

Excused: Manning.
Total 1

Absent or not voting: None.
Total 0

That Senate Bill No. 458 do pass by the following vote:

Ayes: Aklestad, Anderson, Berg, Blaylock, Boylan, B. Brown, S. Brown, Conover, Crippen, Dover, Eck, Etchart, Galt, Goodover, Graham, Hafferman, Haffey, Hager, Halligan, Hammond, Hazelbaker, Healy, Himsl, Jacobson, Johnson, Keating, Kolstad, Lee, Manley, Mazurek, McCallum, Nelson, Norman, Ochsner, O'Hara, Olson, Regan, Ryan, Severson, Smith, Stephens, Stimatz, Story, Thomas, Towe, Tveit, Van Valkenburg, Mr. President.
Total 48

Noes: Elliott.
Total 1

Excused: Manning.
Total 1

Absent or not voting: None.
Total 0

That Senate Bill No. 459 be amended as follows:

1. Page 3, line 25.
Following: "87-4-101"
Strike: "(4)"
Insert: "(3)"

2. Page 4, line 2.
Following: "shall be"
Strike: "conclusively"

Amendment passed by the following vote:

Ayes: Aklestad, Anderson, Berg, Blaylock, Boylan, B. Brown, S. Brown, Conover, Crippen, Dover, Eck, Elliott, Etchart, Galt, Goodover, Graham, Hafferman, Haffey, Hager, Halligan, Hammond, Hazelbaker, Healy, Himsl, Jacobson, Johnson, Keating, Kolstad, Lee, Manley, Mazurek, McCallum, Nelson, Norman, Ochsner, O'Hara, Olson, Regan, Ryan, Severson, Smith, Stephens, Stimatz, Story, Thomas, Towe, Tveit, Van Valkenburg, Mr. President.
Total 49

Noes: None.
Total 0

Excused: Manning.
Total 1

Absent or not voting: None.
Total 0

That Senate Bill No. 459, as amended, do pass by the following vote:

Ayes: Berg, Crippen, Eck, Etchart, Goodover, Graham, Hazelbaker, Healy, Himsl, Jacobson, Kolstad, Lee, McCallum, Norman, Ochsner, Olson,

Hafferman, Haffey, Hager, Halligan, Hammond, Hazelbaker, Healy, Himsl, Jacobson, Johnson, Keating, Kolstad, Lee, Mazurek, McCallum, Nelson, Norman, Ochsner, O'Hara, Olson, Regan, Severson, Smith, Stephens, Story, Thomas, Towe, Tveit, Van Valkenburg, Mr. President.
Total 46

Noes: Manley, Ryan.
Total 2

Excused: Manning, Stimatz.
Total 2

Absent or not voting: None.
Total 0

At the request of the President Pro Tempore, and without objection, the Senate reverted to Order of Business No. 8.

SECOND READING OF BILLS (COMMITTEE OF THE WHOLE)

Senator Van Valkenburg in the Chair.

Senate resumed. President Pro Tempore Kolstad in the Chair.

Mr. President Pro Tempore: We, your Committee of the Whole, having had under consideration business on Second Reading, recommend as follows:

That Senate Bill No. 459 be amended as follows:

1. Page 3, line 25.
Following: "87-4-101"
Strike: "(4)"
Insert: "(3)"

2. Page 4, line 2.
Following: "shall be"
Strike: "conclusively"

Amendment passed by the following vote:

Ayes: Aklestad, Anderson, Berg, Blaylock, Boylan, B. Brown, S. Brown, Conover, Crippen, Dover, Eck, Elliott, Etchart, Galt, Goodover, Graham, Hafferman, Haffey, Hager, Halligan, Hammond, Hazelbaker, Healy, Himsl, Jacobson, Johnson, Keating, Kolstad, Lee, Manley, Mazurek, McCallum, Nelson, Norman, Ochsner, O'Hara, Olson, Regan, Ryan, Severson, Smith, Stephens, Story, Thomas, Towe, Tveit, Van Valkenburg, Mr. President.
Total 48

Noes: None.
Total 0

Excused: Manning, Stimatz.
Total 2

Absent or not voting: None.
Total 0

That Senate Bill No. 459 be amended as follows:

1. Page 11, line 9.
Following: "any"

2. Page 18, lines 11 through 13.
Following: "dies,"
Strike: the remainder of lines 11 through "and," on line 13

3. Page 18, line 14.
Following: line 13
Strike: "shall allow"
Following: "family"
Insert: "may continue"

4. Page 18, line 15.
Following: "year"
Insert: "or"

Amendment passed by the following vote:

Ayes: Aklestad, Anderson, Berg, Blaylock, Boylan, B. Brown, S. Brown, Conover, Crippen, Dover, Eck, Elliott, Etchart, Galt, Goodover, Graham, Hafferman, Haffey, Hager, Halligan, Hammond, Hazelbaker, Healy, Himsl, Jacobson, Johnson, Keating, Kolstad, Lee, Manley, Mazurek, McCallum, Nelson, Norman, Ochsner, O'Hara, Olson, Regan, Ryan, Severson, Smith, Stephens, Story, Thomas, Towe, Tveit, Van Valkenburg, Mr. President.
Total 48

Noes: None.
Total 0

Excused: Manning, Stimatz.
Total 2

Absent or not voting: None.
Total 0

That Senate Bill No. 459, as amended, do pass by the following vote:

Ayes: Aklestad, Anderson, Berg, Blaylock, Boylan, B. Brown, S. Brown, Conover, Crippen, Dover, Eck, Elliott, Etchart, Galt, Goodover, Graham, Hafferman, Haffey, Hager, Halligan, Hammond, Hazelbaker, Healy, Himsl, Jacobson, Johnson, Keating, Kolstad, Lee, Manley, Mazurek, McCallum, Nelson, Norman, Ochsner, O'Hara, Olson, Regan, Ryan, Severson, Smith, Stephens, Story, Thomas, Towe, Tveit, Van Valkenburg, Mr. President.
Total 48

Noes: None.
Total 0

Excused: Manning, Stimatz.
Total 2

Absent or not voting: None.
Total 0

That Senate Bill No. 138 do pass by the following vote:

Ayes: Aklestad, Anderson, Berg, Blaylock, Boylan, B. Brown, S. Brown, Conover, Crippen, Dover, Eck, Elliott, Etchart, Galt, Goodover, Graham, Hafferman, Haffey, Hager, Halligan, Hammond, Hazelbaker, Healy, Himsl, Jacobson, Johnson, Keating, Kolstad, Lee, Manley, Mazurek, McCallum, Nelson, Norman, Ochsner, O'Hara, Olson, Regan, Ryan, Severson, Smith, Stephens, Story, Thomas, Towe, Tveit, Van Valkenburg, Mr. President.
Total 48

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
SB 459	Generally revise the laws governing outfitters and guides in the State of Montana	2/25/81	Smith	3/3/81	BE CONCURRED IN AS AMENDED	3/3/81

Representative Jensen asked if a judge could exercise his own discretion in issuing a fine. Senator Turnage said no. He said if this committee wants the $10,000 changed to read "not to exceed $10,000" he would be agreeable to that change.

Representative Bennett asked if "trafficking" was defined somewhere else in the law. Senator Turnage said no but a definition of the word would be appropriate.

Representative Bennett asked if it wouldn't be better to strike the word "trafficking" from the bill. Senator Turnage said that would be fine since there is no definition of the word contained in the bill.

Representative Mueller asked how much poachers get from an animal. Mr. Flynn said he couldn't give an accurate answer because it depends on which market the poacher has the opportunity to penetrate. Mr. Flynn said he feels the fines proposed in the bill are a definite improvement over what the fines are now.

Representative Devlin referred to page 2, line 5 and asked if there would be any problem with changing "shall be punished" to "may be punished"? Senator Turnage said the language in the bill is standard language for criminal acts.

Chairman Ellison asked if there is any means of identification of a "cape" from a legally killed animal versus a "cape" from an illegally killed animal. Woody Wright, department attorney, F, W, & P, told the committee there are identification methods for trophy "capes" and a hunter could also retain the hunting license.

Senator Turnage told the committee he recommended not changing "felony" (page 2, line 9) back to "misdemeanor" because it sometimes takes over a year for prosecution and if the act is a misdemeanor, the statute of limitations for prosecution would run out after one year.

Chairman Ellison asked Senator Turnage if he had any problems with changing the wording on the $10,000 fine to read "up to $10,000". Senator Turnage said no but he suggested putting a "floor" on the amount of the fine.

The hearing was closed on SB 103.

SENATE BILL 459

Senator Gary Lee was asked to present SB 459 to this committee

since Senator Ed Smith, sponsor of the bill, could not be present to do so.

Senator Lee told the committee this bill was brought to the Senate Fish and Game Committee by the outfitters and guides of Montana to accomplish housekeeping in the statutes applying to outfitters and guides.

Senator Lee went over the changes made in SB 459. He recommended the committee concur with SB 459.

There were 3 proponents and no opponents to testify on HB 459.

Proponents

Mr. Woody Wright delivered the testimony on SB 459 for Mr. Flynn. He passed out copies of a written statement to the committee members. (EXHIBIT 2)

Mr. Wright told the committee the outfitters and guides came in large numbers to support this bill in the Senate Fish and Game Committee.

Mr. Tag Rittel, representing the Montana Outfitters and Guides Association, told the committee SB 459 is the association's bill and they are for the bill as written.

There were no opponents present to testify on SB 459.

Representative Robbins referred to page 13, line 5 of the bill and asked why state land was not included in the wording. Senator Lee said he thinks the word "federal" should be stricken from the bill. Senator Lee feels the word "landowner" would cover lands owned by the federal and state governments and private lands.

Representative Roush asked if this bill would prohibit a resident from taking a friend who is a nonresident out hunting. Mr. Wright said the bill would not prohibit that.

Senator Lee said he had problems with some of the wording on page 13, line 22 and on page 12, lines 20 and 21. Chairman Ellison told him Russ Josephson, legal counsel for this committee, would take a look at those sections of the bill.

The hearing on SB 459 was closed.

The committee went into EXECUTIVE SESSION.

SENATE BILL 103

Representative McLane moved SB 103 BE CONCURRED IN.

Representative Robbins asked if anyone thought the amount of the fine should be changed.

Representative Bennett said he thinks the $10,000 fine is quite reasonable.

Representative McLane agreed with Representative Bennett and said the higher the fine, the more of a detriment it would be.

Representative Bennett said he had thought the word "trafficking" should be taken out of the bill but now he is wondering if that would make a difference in Section 3 of the bill. The committee told him it would make a difference.

Representative Bennett said "trafficking" is not defined in the law. Russ Josephson told the committee there is no reason why the word "trafficking" cannot be defined.

Representative McLane's motion was voted on and PASSED unanimously.

SENATE BILL 459

Russ Josephson told the committee the wording in lines 20 and 21 of page 12 needs to be rearranged. He said the bill should be amended as follows:

Page 12, line 20.
Following: "affidavit"
Strike: "on a form provided"

Page 12, line 21.
Following: line 20
Strike: "department by"

Representative Jacobsen moved the above amendment to SB 459.

The motion was voted on and PASSED unanimously.

Russ told the committee page 13, line 5 should be amended as follows:

Page 13, line 5.
Following: "appropriate"
Strike: "federal"

Representative McLane moved the above amendment to SB 459.

The motion was voted on and PASSED unanimously.

Russ told the committee page 13, line 22 should be amended as follows:

Page 13, line 22.
Following: "made"
Insert: "in"

Representative Devlin moved the above amendment to SB 459.

The motion was voted on and PASSED unanimously.

Representative Jacobsen moved SB 459 BE CONCURRED IN AS AMENDED.

The motion was voted on and PASSED unanimously.

Chairman Ellison appointed Representative Jacobsen to carry SB 103 on the floor of the House of Representatives.

Chairman Ellison appointed Representative Robbins to carry SB 459 on the floor of the House of Representatives.

Representative Feda had left absentee votes in favor of SB 103 and SB 459.

The meeting was adjourned at 1:45 p.m.

Orval Ellison
ORVAL ELLISON, Chairman

vml

SENATE BILL NO. 459

INTRODUCED BY E. SMITH, LEE, GALT

BY REQUEST OF

THE SENATE COMMITTEE ON FISH AND GAME

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS GOVERNING OUTFITTERS AND GUIDES IN THE STATE OF MONTANA; AMENDING SECTIONS 2-15-3403, 87-4-101 THROUGH 87-4-106, 87-4-121 THROUGH 87-4-128, 87-4-130, 87-4-131, AND 87-4-141 THROUGH 87-4-144, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-15-3403, MCA, is amended to read:

"2-15-3403. Montana outfitters' council. (1) There is a Montana outfitters' council.

(2) The council consists of seven members. Each member shall be a licensed outfitter and shall represent one of the seven fish and game administrative districts. A member shall be selected by the licensed outfitters residing in that district by election at an annual meeting of the outfitters to be held in the city where the ~~district~~ regional headquarters ~~at 1:00 p.m. on the second Friday~~ is located during the month of March. A majority vote cast by written ballot of all the outfitters in attendance at the meeting shall determine the member delegate from the district. At the election an alternate member delegate shall also be elected by written ballot to serve if the ~~first-elected~~ member delegate is unable to act.

(3) The members shall serve staggered 3-year terms and take office on the day they are elected.

(4) The council is allocated to the department.

(5) The council is not subject to the provisions of 2-15-122."

Section 2. Section 87-4-101, MCA, is amended to read:

"87-4-101. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

~~(1) "Advisory council" means the Montana outfitters' council provided for in 2-15-3403.~~

~~(2)~~(1) "License year" means that period commencing ~~May 1~~ January 1 and ending ~~April 30~~ December 31 of the next same year.

~~(3)~~(2) "Nonresident" means a person other than a resident.

~~(4)~~(3) "Outfitter" means any person, persons, company, or corporation who:

(a) engages in the business of outfitting for hunting or fishing parties, as the term is commonly understood;

(b) for consideration provides any saddle or pack animal or personal service for hunting or fishing parties or

THIRD READING

camping equipment, vehicles, or other conveyance, except boats, for any person to hunt, trap, capture, take, or kill any game and accompanies such a party or person on an expedition for any of these purposes;

(c) for consideration furnishes a boat or other floating craft and accompanies any person for the purpose of catching fish; or

(d) for consideration aids or assists any person in locating or pursuing any game animal.

(4) "Outfitters' council" means the Montana outfitters' council provided for in 2-15-3403.

(5) "Professional guide" means a person who is an employee of an outfitter and who furnishes only personal guiding services in assisting a person to hunt or take game animals or fish and who does not furnish any facilities, transportation, or equipment.

(6) "Resident" means a person who qualifies for a resident Montana hunting or fishing license under 87-2-102.

~~(7)--"Resident-guide"--means--a--resident--who--guides resident--or--nonresident-friends-for-the-purpose-of-hunting game-animals-without-compensation.~~"

Section 3. Section 87-4-102, MCA, is amended to read:

"87-4-102. Determination of what constitutes consideration. The providing of the services, property, or equipment mentioned in 87-4-101~~(4)~~(3) or the advertising of

services to assist persons to hunt, pursue, or take wildlife or to fish shall be ~~conclusively~~ presumed to have been for consideration for the purposes of this part ~~if-the-same-or any--thereof--are--provided--by--any--person,--company,---or corporation--for--more-than-two-parties-or-two-other-persons during-any-calendar-year--or--on--more--than--two--occasions during-any-such-calendar-year.~~"

Section 4. Section 87-4-103, MCA, is amended to read:

"87-4-103. Responsibility for violations of law. (1) Any person accompanying a hunting or fishing party as an outfitter or agent or employee of such outfitter shall be equally responsible with any person or party employing him as an outfitter for any violation of ~~the-law~~ fish and game laws; any such outfitter or employee of such outfitter who shall willfully fail to or refuse to report any violation of ~~the-law~~ fish and game laws shall be liable to the penalties as herein provided. If any professional guide commits any violation of the laws or applicable regulations relating to fish and game, outfitting, or guiding with actual or implied knowledge of an outfitter then employing such guide, the outfitter is legally responsible for such violation for all purposes under the laws or regulations if the outfitter fails to report any such violation to proper authority.

(2) No person may hire or retain any outfitter or professional

guide is currently licensed in accordance with the laws of the state of Montana."

Section 5. Section 87-4-104, MCA, is amended to read:

"87-4-104. Powers and duties of department relating to outfitters and guides. The department shall:

(1) prepare and publish an information pamphlet which contains the names and addresses of all licensed outfitters. This pamphlet shall be available for free distribution as early as possible during each calendar year but not later than the second Friday in March. The pamphlet shall contain the names and addresses of only those outfitters who have a valid license for the current license year. The costs of publication of the pamphlet shall be paid from the earmarked revenue fund, fish and game account.

(2) cooperate with the federal government through its appropriate agencies or instrumentalities in matters of mutual concern regarding the business of outfitting and guiding in Montana;

(3) establish a minimum of two meetings annually with the ~~advisory~~ outfitters' council;

(4) consult with the ~~advisory~~ outfitters' council to develop policy concerning the administration of outfitting;

(5) designate a warden ~~or ex-officio warden~~ with no conflict of interest whose primary duties are to administer outfitting and guiding laws and regulations."

Section 6. Section 87-4-105, MCA, is amended to read:

"87-4-105. Outfitters' council. The council shall have the authority and duty to make recommendations to the department and the director as to:

(1) outfitter standards and professional guide standards;

(2) rules of procedures and rules to effectuate this part, including but not limited to rules prescribing all requisite qualifications for license. These qualifications shall include training, experience, knowledge of rules of governmental bodies pertaining to outfitting, and condition and type of gear and equipment.

(3) hearings and proceedings to suspend or revoke licenses of outfitters and professional guides and to recommend suspension or revocation of licenses for due cause;

(4) any reasonable rules, not in conflict with this part, necessary for safeguarding the health, safety, and welfare of those persons utilizing the services of outfitters and for the protection of landowners and the general public."

Section 7. Section 87-4-106, MCA, is amended to read:

"87-4-106. Authorization for rules. The department may adopt, promulgate, and enforce rules recommended by the ~~advisory~~ outfitters' council as provided in 87-4-105 and all

other rules it may consider proper for the administration and enforcement of the provisions of this part and the regulation of outfitting and guiding to provide for the services to the public."

Section 8. Section 87-4-121, MCA, is amended to read:

"87-4-121. License required -- services performed -- standards. (1) No person may act as an outfitter, ~~or~~ professional guide, ~~--or--resident--guide~~ or advertise as an outfitter without first securing a license in accordance with the provisions of this part.

(2) Whenever an outfitter is engaged by any person ~~or a--resident--guide--takes--out--nonresident---friends~~, the outfitter ~~or-resident-guide~~ shall keep and submit records as required by the department.

(3) Outfitters and their employees may not shoot, kill, or take big game animals for or in competition with those employing them while acting under employment as an outfitter.

(4) Outfitters ~~and--resident--guides~~ utilizing lands under the control of the United States government shall obtain the proper permits required by the government office responsible for the area in which the outfitter ~~or-resident guide~~ intends to operate and shall comply with environmental protection standards established for these lands.

(5) An outfitter may not willfully and substantially

misrepresent his facilities, prices, equipment, services, or hunting or fishing opportunities.

(6) Outfitters and their employees shall take every reasonable measure to provide their advertised services to their clients."

Section 9. Section 87-4-122, MCA, is amended to read:

"87-4-122. Outfitter's qualifications. Each applicant for and holder of an outfitter's license or any renewal thereof shall, in the opinion of the director, meet the following qualifications:

(1) be a person of at least 18 years of age, ~~in possession---of---all---natural---faculties,---of---ordinary intelligence,--and--in-such-physical-condition-as-to-be-able~~ who is physically capable and mentally competent to perform his duties as an outfitter;

(2) be ~~a--citizen-of-the-United-States-and~~ a resident of Montana ~~for--a--full--2--years,--unless--the--residency requirement-is-waived-by-the-department~~;

(3) own or hold under written lease or represent a company, corporation, or partnership who owns or holds under written lease the equipment and facilities as are necessary to provide the services advertised, contracted for, or agreed upon between the outfitter and his clients (all equipment and facilities shall be subject to inspection at all reasonable times and places by the department or its

designated agent);

(4) be a person who has demonstrated a respect for and compliance with the laws of any state or of the United States and all rules promulgated thereunder as to matters of fish and game, conservation of natural resources, and preservation of the natural ecosystem without pollution thereof;

(5) have not been convicted or forfeited bond of $100 or more on more than one violation of the fish and game laws or applicable regulations of any state or the United States within the past 5 years;

(6) have not, at any time, practiced fraud, deception, or material misrepresentation in procuring any previous outfitter's, professional or guide's, or conservation license from the state of Montana;

(7) have not, at any time, promulgated any false or misleading advertising relating to the business of outfitting;

(8) have not been finally adjudged by a court of law guilty of any substantial breach of written or oral contract with any person utilizing the applicant's services as an outfitter or professional guide during the license year immediately preceding that for which the application is made;

(9) have not committed any negligent act or misconduct

while acting as an outfitter or professional guide ~~which negligence or misconduct~~ that caused a danger or unreasonable risk of danger to person or property of any client of such outfitter or professional guide during the license year immediately preceding that for which the application is made;

(10) have not, at any time, ~~been convicted~~ pleaded guilty to or been adjudged by a court guilty of a felony, unless civil rights have been restored pursuant to law. No person may apply for or hold an outfitter's license during any period of time in which a ~~deferred~~ sentence has been ~~imposed~~ deferred or suspended for a felony.

(11) have substantially complied with all department regulations and state and federal laws concerning outfitters and professional guides, if the applicant has previously held a license as an outfitter or professional guide."

Section 10. Section 87-4-123, MCA, is amended to read:

"87-4-123. Professional guide's qualifications. (1) An applicant for a professional guide's license shall meet the following requirements:

(a) be a person of at least 18 years of age, ~~in possession of all natural faculties, of ordinary intelligence, and in such physical condition as to be able~~ who is physically capable and mentally competent to perform his duties as a professional guide;

~~(b) be a citizen of the United States and a resident of Montana as defined in 87-4-101~~

~~(c)~~(B) be endorsed and recommended by an outfitter with a valid license~~;~~;

~~(d)~~(C) have not been convicted or forfeited bond of $100 or more on more than one violation of the fish and game laws or applicable regulations of the state of Montana or the United States within the past 5 years;

~~(e)~~(D) have not committed any ~~negligent act~~ GROSS NEGLIGENCE or misconduct while acting as a guide that caused an accident or injury to person or property of any client of an outfitter during the license year immediately preceding that for which the application is made;

~~(f)~~(E) have not, at any time, pleaded guilty to or been adjudged by a court guilty of a felony, unless civil rights have been restored pursuant to law. No person may apply for or hold a professional guide's license during any period of time in which a sentence has been deferred or suspended for a felony.

(2) A ~~resident~~ professional guide shall have been issued a valid ~~resident~~ wildlife conservation license."

Section 11. Section 87-4-124, MCA, is amended to read:

"87-4-124. Application. (1) Each applicant for an outfitter's or professional guide's license shall make application for license upon a form to be prescribed and

furnished by the department which shall include:

(a) the applicant's full name, residence, address, conservation license number, driver's license number, birth date, physical description, and telephone number;

(b) the address of his principal place of business in the state of Montana;

(c) the amount and kind of property and equipment owned and used in the outfitting business of the applicant, if an outfitter's license application is involved;

(d) the experience of the applicant, including years of experience as an outfitter or professional guide, knowledge of areas in which he has operated and intends to operate, and ability to cope with weather conditions and terrain;

(e) a signed statement of the licensed outfitter by whom the professional guide is to be employed that the professional guide is in fact to be employed by such outfitter and stating that the outfitter recommends the applicant for his qualifications;

(f) ~~a statement~~ an affidavit on a form provided by the department by ~~a warden~~ the outfitter to the director that the equipment listed on the application ~~has been inspected by the warden and that the same~~ is in fact owned or leased by the applicant, is in good operating condition, and is sufficient and satisfactory for the services advertised or

contemplated to be performed by such applicant;

(g) a statement of the maximum number of guests to be taken at any one time;

(h) the written approval of the ~~rangers--in-whose district~~ appropriate federal agency or landowner on whose lands he will establish hunting camps~~,--if-the-applicant intends-to-outfit-on-a-national-forest~~.

(2) Applications for outfitter's license shall be in the name of an individual person only. Applications involving corporations or partnerships shall be made by one individual person who qualifies under the provisions of this part; any license issued pursuant thereto shall be in the name of that person; and the license shall specifically state that the same is issued for the use and benefit of the named corporation or partnership involved. Any revocation or suspension of such a license is binding upon the individual person and the partnership or corporation for the use and benefit of which the license was originally issued.

(3) Application shall be made to and filed with the director.

(4) Only one application for an outfitter's or professional guide's license may be made any one license year. If any application is denied, subsequent applications by the same applicant for the license year involved are void, except as provided in 87-4-129."

Section 12. Section 87-4-125, MCA, is amended to read:

"87-4-125. Outfitter's examination. Each applicant for an outfitter's license shall pass a standard examination administered by the director or an agent designated by him, which examination shall require general and sufficient knowledge displaying and indicating ability to perform the services contemplated with efficiency and with safety to the health and welfare of persons employing such services. The examination shall test the applicant's knowledge of subjects which shall apply to the type of license applied for in the following subjects:

(1) federal and state fish and game laws and regulations;

(2) practical woodsmanship;

(3) general knowledge of big game;

(4) field preparation of trophies;

(5) care of game meat;

(6) use of outfitter's gear as ~~shown~~ listed on the application;

(7) knowledge of area and terrain;

(8) knowledge of firearms;

(9) federal and state regulations as applicable to outfitting;

(10) ~~practical~~ first aid~~.~~;

(11) boat safety;

(12) water safety;

(13) care and safety of livestock."

Section 13. Section 87-4-126, MCA, is amended to read:

"87-4-126. Residence requirements -- waiver and reciprocity. (1) Residence requirements for procuring an outfitter's license are waived as to persons who are ~~citizens~~ bona fide residents of a common boundary state and of a common county thereof to the same extent the home state of the applicant waives such requirements for the residents of Montana, except for fee.

(2) For the purpose of obtaining a professional guide's license only, nonresident professional guides employed by resident outfitters shall be considered resident professional guides."

Section 14. Section 87-4-127, MCA, is amended to read:

"87-4-127. Fees. (1) Applications shall be accompanied by a license fee as herein stipulated, which will be refunded if and when the application is denied:

(a) resident outfitter's license fee.....$50;

(b) resident professional guide's fee.....$15;

(c) nonresident outfitter's license fee.....$150;

(d) nonresident professional guide's fee.....$100.

~~(2) A resident guide's license is a valid Montana wildlife conservation license.~~

~~(3)~~(2) If the nonresident resides in a state requiring

residents of the state of Montana to pay in excess of such amounts for a similar license, the fee for such nonresident ~~outfitters~~ outfitter's or ~~guides~~ professional guide's license shall be the same amount as the higher fee charged in the state where the nonresident resides. All fees collected under this part shall be deposited as provided in 87-1-601.

~~(4)~~(3) The license fee shall be used to investigate the applicant, to enforce this part, and for administrative costs."

Section 15. Section 87-4-128, MCA, is amended to read:

"87-4-128. Investigation of applicant -- issuance or denial of license. (1) The director in his discretion may cause to be made such additional investigation and inquiry relative to the applicant for outfitter's or professional guide's license and an applicant's qualifications as he considers advisable.

(2) The director may deny or refuse to issue any new license or to renew any previous license if, in his opinion, the applicant does not meet the qualifications herein stated. In the event that any application for license is denied or refused, the director shall immediately notify the applicant, setting forth in the notice the grounds upon which the denial or refusal is based.

(3) Final decision as to issuance of renewal licenses

shall be made not later than 30 days from the date of receipt of the completed application for renewal and not later than 90 days from the date of receipt of a completed application for a new license.

(4) A licensee in good standing is entitled to a new license for the ensuing license year upon complying with the provisions of this part and completing an application for license renewal on a form provided by the department but is exempt from having to retake the written examination.

(5) An outfitter licensee must make an application for license renewal by January 1 of the license year. A penalty fee of $50 will be charged in addition to the regular resident or nonresident outfitter's license if the application for such license is not completed and made by January 1 of the license year. This subsection does not apply to a new applicant for an outfitter's license."

Section 16. Section 87-4-130, MCA, is amended to read:

"87-4-130. Professional guide's license. (1) For the purposes of this part, a person may serve as a professional guide under his employer's license, after submitting his application with the proper license fee, until the license is issued ~~or for 10 days after notification of the rejection of the license~~ or denied.

(2) To be valid, a professional guide's license must bear the signature and outfitter's license number of an the

endorsing outfitter and is valid only while the holder of such license is employed by an the endorsing outfitter."

Section 17. Section 87-4-131, MCA, is amended to read:

"87-4-131. Transfer or amendment of outfitter's license. (1) No outfitter's license may be transferred during any license year.

(2) An individual person may, upon proper showing, have his outfitter's license amended to indicate that he is holding the license for the use and benefit of a named partnership or corporation.

(3) If a licensed outfitter dies, ~~the outfitter's license shall be considered to be part of the estate of the deceased outfitter and~~ subject to approval by the director, ~~shall allow~~ the immediate members of the family MAY CONTINUE to outfit for the deceased outfitter's unexpired license year OR until the heirs or personal representative of the estate sells the outfitting business or obtains relicensure therefor."

Section 18. Section 87-4-141, MCA, is amended to read:

"87-4-141. Grounds for suspension or revocation of license. Every license or right to apply for and hold such license may be suspended or revoked upon any of the following grounds:

(1) having ceased to meet all of the qualifications for holding a license;

(2) fraud or deception in procuring a license;

(3) fraudulent, untruthful, or misleading advertising;

(4) ~~conviction~~ having pleaded guilty to or been adjudged by a court guilty of a felony, ~~until~~ including a case in which the sentence is suspended or imposition of the sentence is deferred, unless civil rights ~~are~~ have been restored ~~or until time of any deferred sentence for a felony has expired~~ pursuant to law;

(5) two convictions or bond forfeitures of $100 or more as to violations of the fish and game or outfitting laws or regulations of the state of Montana or of the United States within the past 5 years;

(6) a substantial breach of any contract with any person utilizing the services of the license holder provided that such breach is established as a matter of final judgment in a court of law;

(7) the willful employment of an unlicensed professional guide by an outfitter;

(8) negligence or misconduct while acting as an outfitter or professional guide ~~which negligence or misconduct~~ that causes ~~a danger or unreasonable risk of danger~~ an accident or injury to person or property of any client of such outfitter or professional guide."

Section 19. Section 87-4-142, MCA, is amended to read:

"87-4-142. Procedure for suspension or revocation of

license -- reissuance. (1) Proceedings for the revocation or suspension of a license issued hereunder may be taken upon charge or recommendation of any person. All such charges or recommendations must be made in writing, must state the facts upon which such charge or recommendation is based, and must be signed and sworn to by the person making the charge or recommendation. Any such charge or recommendation shall be filed with the director. Thereupon, the director shall initiate a preliminary investigation of all facts in connection with the charge.

(2) A copy of all information shall be transmitted to the ~~advisory~~ outfitters' council. The ~~advisory~~ outfitters' council may make recommendation as to the action to be taken. Any such recommendation shall be made in writing and delivered to the director within 20 days after date of transmittal of such information to the council.

(3) If the accusation be deemed to be unfounded or trivial, the director shall dismiss the same and will advise the licensee charged and the complaining party of the action. Should the director determine the charge or recommendation to have good cause and to be sufficiently founded, he shall ~~recommend to the commission that the same be approved and the revocation or suspension be effected~~ appoint a hearing officer who shall conduct a hearing on such charges in accordance with the Montana Administrative

Procedure Act.

(4) The director thereupon shall cause a copy of the charge, recommendation of the council, and a record of the investigation to be served upon the licensee involved not less than 20 days prior to the day set for hearing thereon, which said hearing shall be before ~~the--commission~~ an appointed hearing officer at a time and place set by such ~~commission~~ officer. At the hearing, the licensee involved may be represented by counsel. After full, fair, and impartial hearing, the ~~commission~~ director may suspend the accused's license or his right to hold a license for a period not to exceed 3 years, may order the license revoked, or may dismiss the charge or recommendation based upon the facts shown at the hearing.

(5) A revoked or suspended license may be reissued or reinstated at the discretion of the ~~commission~~ director."

Section 20. Section 87-4-143, MCA, is amended to read:

"87-4-143. Appeal procedure. Any person who feels aggrieved by the denial of issuance of a license or suspension or revocation of a license as an outfitter or professional guide may appeal to the district court of the county of his residence within 30 days after the date of such action by filing with the clerk of said court a notice of appeal briefly setting forth the action complained of and appealed from. Summons and copy of the notice of appeal

shall be served on the ~~commission~~ director, and all proceedings shall conform to the code of civil procedure of the state of Montana. Upon such appeal, the action shall be by trial de novo, and upon demand in writing, either party shall be entitled to trial by jury. The court may sustain or reverse the action of the ~~commission~~ director or take such other action as the court may deem just and proper. If the ~~commission~~ director or the court has ordered a stay of any revocation or suspension and the ~~commission's~~ director's revocation or suspension is thereafter sustained by the court, the period of suspension or revocation shall begin with the first day after the court's action sustaining the decision of the ~~commission~~ director."

Section 21. Section 87-4-144, MCA, is amended to read:

"87-4-144. Enforcement. The warden ~~or--ex--officio~~ warden designated by the department to primarily administer outfitting and guiding laws and rules, other wardens, and all peace officers shall enforce this part."

-End-

EXHIBIT 2
3/3/81

HOUSE FISH & GAME COMMITTEE

March 3, 1981

PRESENTED BY: James W. Flynn, Director
Dept. of Fish, Wildlife & Parks

SB459

Mr. Chairman, members of the committee: My name is Jim Flynn. I appear today on behalf of the Montana Department of Fish, Wildlife, and Parks.

SB459 proposes a variety of changes to the current outfitters and guides law. The department agrees that many of these changes are needed, and will benefit the industry and the department.

STANDING COMMITTEE REPORT

March 3 19 31

MR. SPEAKER:

We, your committee on FISH AND GAME

having had under consideration SENATE Bill No. 459

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS GOVERNING OUTFITTERS AND GUIDES IN THE STATE OF MONTANA; AMENDING SECTIONS 2-15-3403, 87-4-101 THROUGH 87-4-128, 87-4-130, 87-4-131, AND 87-4-141 THROUGH 87-4-144, MCA."

Respectfully report as follows: That SENATE Bill No. 459 be amended as follows:

1. Page 12, line 20.
Following: "affidavit"
Strike: "on a form provided"

2. Page 12, line 21.
Following: line 20
Strike: "department by"

3. Page 13, line 5.
Following: "appropriate"
Strike: "federal"

4. Page 13, line 22.
Following: "made"
Insert: "in"

~~BILL~~ BE CONCURRED IN AS AMENDED

ORVAL ELLISON, Chairman.

STATE PUB. CO.
Helena, Mont.

Total 15

Excused: Brand, Huennekens, O'Connell, Waldron, Williams.
Total 5

Absent or not voting: Devlin, Fagg, Lund, Manuel, Marks, Shontz.
Total 6

Representative Moore excused at this time.

Representative Williams present at this time.

Representative Keedy moved that SB 36, as amended, be concurred in. Motion carried by the following vote:

Ayes: Abrams, Anderson, Andreason, Asay, Azzara, Bardanouve, Bennett, Bergene, Bertelsen, Briggs, Brown, Burnett, Conn, Conroy, Cozzens, Daily, Devlin, Dozier, Dussault, Ellerd, Ellison, Ernst, Eudaily, Fabrega, Feda, Gould, Hannah, Hanson, Harp, Harper, Hart, Hemstad, Holliday, Iverson, Jacobsen, Jensen, Kanduch, Keedy, Kemmis, Kennerly, Kessler, Keyser, Kitselman, Kropp, Manning, Matsko, McBride, McLane, Menahan, Metcalf, Meyer, Mueller, Neuman, Nilson, Oberg, O'Hara, Pavlovich, Phillips, Pistoria, Quilici, Robbins, Roth, Roush, Ryan, Sales, Schultz, Seifert, Shelden, Smith, Spilker, Switzer, Teague, Thoft, Underdal, Vincent, Vinger, Wallin, Williams, Yardley, Zabrocki.
Total 80

Noes: None.
Total 0

Excused: Brand, Huennekens, Moore, O'Connell, Waldron.
Total 5

Absent or not voting: Bengtson, Curtiss, Donaldson, Fagg, Harrington, Hurwitz, Lory, Lund, Manuel, Marks, Nordtvedt, Shontz, Sivertsen, Stobie, Winslow.
Total 15

Representative Underdal excused at this time.

Representative Matsko moved that SB 83, as amended, be concurred in. Motion carried by the following vote:

Ayes: Anderson, Azzara, Bennett, Bergene, Briggs, Brown, Burnett, Conn, Conroy, Cozzens, Curtiss, Daily, Dussault, Ellerd, Eudaily, Feda, Gould, Hannah, Harper, Harrington, Hart, Iverson, Jensen, Kemmis, Keyser, Kropp, Matsko, McLane, Menahan, Metcalf, Nilson, Oberg, O'Hara, Quilici, Roth, Ryan, Sales, Schultz, Smith, Vincent, Wallin, Williams, Winslow, Yardley.
Total 44

Noes: Abrams, Andreason, Asay, Bardanouve, Bengtson, Bertelsen, Dozier, Ellison, Ernst, Fabrega, Fagg, Hanson, Harp, Hemstad, Holliday, Jacobsen, Kanduch, Keedy, Kennerly, Kessler, Kitselman, Manning, McBride, Meyer, Mueller, Neuman, Pavlovich, Phillips, Pistoria, Robbins, Roush, Shelden, Shontz, Sivertsen, Spilker, Switzer, Teague, Thoft, Vinger, Zabrocki.
Total 40

Excused: Brand, Huennekens, Moore, O'Connell, Underdal, Waldron.
Total 6

Absent or not voting: Devlin, Donaldson, Hurwitz, Lory, Lund, Manuel, Marks, Nordtvedt, Seifert, Stobie.

Total 10

Representative Robbins moved that SB 459, as amended, be concurred in. Motion carried by the following vote:

Ayes: Abrams, Anderson, Andreason, Asay, Azzara, Bardanouve, Bennett, Bergene, Bertelsen, Briggs, Brown, Burnett, Conn, Cozzens, Curtiss, Devlin, Dussault, Ellerd, Ellison, Ernst, Eudaily, Fabrega, Feda, Gould, Hannah, Hanson, Harp, Harper, Harrington, Hart, Hemstad, Holliday, Iverson, Jacobsen, Kanduch, Keedy, Kemmis, Kennerly, Kessler, Keyser, Kitselman, Kropp, Manning, Matsko, McBride, McLane, Menahan, Metcalf, Meyer, Mueller, Neuman, Nilson, Nordtvedt, Oberg, Pavlovich, Phillips, Pistoria, Quilici, Robbins, Roush, Ryan, Sales, Schultz, Seifert, Shelden, Shontz, Sivertsen, Smith, Spilker, Switzer, Teague, Thoft, Vincent, Vinger, Wallin, Williams, Winslow, Zabrocki.
Total 78

Noes: O'Hara.
Total 1

Excused: Brand, Huennekens, Moore, O'Connell, Underdal, Waldron.
Total 6

Absent or not voting: Bengtson, Conroy, Daily, Donaldson, Dozier, Fagg, Hurwitz, Jensen, Lory, Lund, Manuel, Marks, Roth, Stobie, Yardley.
Total 15

Representative Holliday moved that HB 293, second reading copy, be amended as follows:

1. Page 2, line 20.
Following: line 19
Strike: "SECTION 1"
Insert: "subsection (1)"

Amendment passed by the following vote:

Ayes: Abrams, Anderson, Andreason, Asay, Azzara, Bardanouve, Bengtson, Bennett, Bergene, Bertelsen, Briggs, Brown, Burnett, Conn, Cozzens, Curtiss, Daily, Devlin, Dussault, Ellerd, Ellison, Ernst, Eudaily, Fabrega, Fagg, Feda, Gould, Hannah, Hanson, Harp, Harper, Hart, Hemstad, Holliday, Iverson, Jacobsen, Kanduch, Keedy, Kemmis, Kennerly, Kessler, Keyser, Kitselman, Kropp, Manning, Matsko, McBride, McLane, Menahan, Metcalf, Meyer, Mueller, Neuman, Nilson, Nordtvedt, Oberg, O'Hara, Pavlovich, Phillips, Pistoria, Quilici, Robbins, Roush, Ryan, Sales, Schultz, Seifert, Shelden, Sivertsen, Smith, Spilker, Switzer, Teague, Thoft, Vincent, Vinger, Wallin, Williams, Winslow, Zabrocki.
Total 80

Noes: None.
Total 0

Excused: Brand, Huennekens, Moore, O'Connell, Underdal, Waldron.
Total 6

Absent or not voting: Conroy, Donaldson, Dozier, Harrington, Hurwitz, Jensen, Lory, Lund, Manuel, Marks, Roth, Shontz, Stobie, Yardley.
Total 14

And HB 293, as amended, do pass by the following vote:

Ayes: Abrams, Anderson, Andreason, Asay, Azzara, Bardanouve, Bengtson, Bergene, Bertelsen, Briggs, Brown, Burnett, Conn, Cozzens,

GOVERNOR'S PROPOSED AMENDMENT TO SENATE BILL NO. 41

1. Title, lines 5 and 6.
Following: "EXEMPT"
Strike: "SENIOR CITIZEN CENTERS THAT ARE"
Insert: "BUILDINGS OF"

March 23, 1981

The Honorable Jean A. Turnage
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Robert L. Marks
Speaker of the House
State Capitol
Helena, Montana 59620

Dear Senator Turnage and Representative Marks:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return Senate Bill No 459, "AN ACT TO GENERALLY REVISE THE LAWS GOVERNING OUTFITTERS AND GUIDES IN THE STATE OF MONTANA; AMENDING SECTIONS 2-15-3403, 87-4-101 THROUGH 87-4-106, 87-4-121 THROUGH 87-4-128, 87-4-130, 87-4-131, AND 87-4-141 THROUGH 87-4-144, MCA," without my signature and recommend the attached amendments.

It is the intent of SB 459, in part, to allow immediate family members of a deceased licensed outfitter to continue to outfit for the term of the deceased outfitter's unexpired license, if the director of the Department of Fish, Wildlife, and Parks approves. The bill as written, does not clearly accomplish this task. The problem can be solved by clarifying the language in Section 17 (Section 87-4-131(3)) of the bill.

Further, I am also proposing an amendment to Section 10 (Section 87-4-123(1)(d)) of the bill in order to clarify the language. Neither the substance nor intent of the cited section has been changed by my proposed amendment.

I urge your concurrence in these amendments.

Sincerely,

TED SCHWINDEN
Governor

GOVERNOR'S PROPOSED AMENDMENTS TO SENATE BILL NO. 459

1. Page 11, line 10.
Following: "GROSS"
Strike: "NEGLIGENCE"
Insert: "negligent act"

2. Page 18, line 11.
Following: "(3)"
Strike: "If a licensed outfitter dies,"

3. Page 18, line 13.
Following: "~~and,~~"
Strike: "subject"

Insert: "Subject"

4. Page 18, line 14.
Following: "family"
Insert: "of a deceased licensed outfitter"

March 23, 1981

The Honorable Robert Marks
Speaker of the House
Montana House of Representatives
State Capitol
Helena, Montana 59620

Dear Mr. Speaker:

This is to inform you that I have signed the following measures this date:

House Bill Nos. 54, 79, 104, 141, 195, 256, 272, 450, 509, 696.

Sincerely,

TED SCHWINDEN
Governor

MESSAGES FROM THE OTHER HOUSE

Senate Joint Resolution passed as amended and transmitted to the House for concurrence: 3/23/81

Senate Joint Resolution No. 24, introduced by Jacobson, Healy, Haffey, et al.

House Bills not concurred in and returned to the House: 3/23/81

House Bill No. 612, introduced by Bardanouve

House Bill No. 717, introduced by Winslow

House Bills concurred in and returned to the House: 3/23/81

House Bill No. 98, introduced by Feda

House Bill No. 112, introduced by Lund

House Bill No. 147, introduced by Brand

House Bill No. 257, introduced by Wallin, Schultz, Kitselman, et al.

House Bill No. 302, introduced by Bardanouve

House Bill No. 473, introduced by Fabrega, Berg, Sivertsen

House Bill No. 540, introduced by Huennekens

House Bill No. 584, introduced by Ellison, Dussault

House Bill No. 625, introduced by Fabrega, Goodover, Moore, Robbins

House Bill No. 642, introduced by Bennett, Harp, Bertelsen, Sales, et al.

House Bill No. 643, introduced by Matsko

House Bill No. 661, introduced by D. O'Hara

House Bill No. 667, introduced by Roth, Galt, Iverson, et al.

House Bill No. 711, introduced by Harper, Hart, Harp

Total 2

Absent or not voting: None.
Total 0

That the Governor's Amendments to Senate Bill No. 49 be concurred in by the following vote:

Ayes: Aklestad, Anderson, Berg, Blaylock, Boylan, B. Brown, S. Brown, Conover, Crippen, Dover, Eck, Elliott, Etchart, Goodover, Graham, Hafferman, Haffey, Hager, Halligan, Hammond, Hazelbaker, Healy, Himsl, Jacobson, Johnson, Keating, Kolstad, Lee, Manley, Manning, Mazurek, Nelson, Norman, Ochsner, O'Hara, Olson, Regan, Ryan, Severson, Smith, Stephens, Stimatz, Story, Thomas, Towe, Tveit, Van Valkenburg, Mr. President.
Total 48

Noes: None.
Total 0

Excused: Galt, McCallum.
Total 2

Absent or not voting: None.
Total 0

That the Governor's Amendments to Senate Bill No. 78 be concurred in by the following vote:

Ayes: Aklestad, Anderson, Berg, Blaylock, Boylan, B. Brown, S. Brown, Conover, Crippen, Dover, Eck, Elliott, Etchart, Goodover, Graham, Hafferman, Haffey, Hager, Halligan, Hammond, Hazelbaker, Healy, Himsl, Jacobson, Johnson, Keating, Kolstad, Lee, Manley, Manning, Mazurek, Nelson, Norman, Ochsner, O'Hara, Olson, Regan, Ryan, Severson, Smith, Stephens, Stimatz, Story, Thomas, Towe, Tveit, Van Valkenburg, Mr. President.
Total 48

Noes: None.
Total 0

Excused: Galt, McCallum.
Total 2

Absent or not voting: None.
Total 0

That the Governor's Amendments to Senate Bill No. 85 be concurred in by the following vote:

Ayes: Aklestad, Anderson, Berg, Blaylock, Boylan, B. Brown, S. Brown, Conover, Crippen, Dover, Eck, Elliott, Etchart, Goodover, Graham, Hafferman, Haffey, Hager, Halligan, Hammond, Hazelbaker, Healy, Himsl, Jacobson, Johnson, Keating, Kolstad, Lee, Manley, Manning, Mazurek, Nelson, Norman, Ochsner, O'Hara, Olson, Regan, Ryan, Severson, Smith, Stephens, Stimatz, Story, Thomas, Towe, Tveit, Van Valkenburg, Mr. President.
Total 48

Noes: None.
Total 0

Excused: Galt, McCallum.
Total 2

Absent or not voting: None.
Total 0

That the Governor's Amendments to Senate Bill No. 161 be concurred in by the following vote:

Ayes: Aklestad, Anderson, Berg, Blaylock, Boylan, B. Brown, S. Brown, Conover, Crippen, Dover, Eck, Elliott, Etchart, Goodover, Graham, Hafferman, Haffey, Hager, Halligan, Hammond, Hazelbaker, Healy, Himsl, Jacobson, Johnson, Keating, Kolstad, Lee, Manley, Manning, Mazurek, Nelson, Norman, Ochsner, O'Hara, Olson, Regan, Ryan, Severson, Smith, Stephens, Stimatz, Story, Thomas, Towe, Tveit, Van Valkenburg, Mr. President.
Total 48

Noes: None.
Total 0

Excused: Galt, McCallum.
Total 2

Absent or not voting: None.
Total 0

That the Governor's Amendments to Senate Bill No. 459 be concurred in by the following vote:

Ayes: Aklestad, Anderson, Berg, Blaylock, Boylan, B. Brown, S. Brown, Conover, Crippen, Dover, Eck, Elliott, Etchart, Goodover, Graham, Hafferman, Haffey, Hager, Halligan, Hammond, Hazelbaker, Healy, Himsl, Jacobson, Johnson, Keating, Kolstad, Lee, Manley, Manning, Mazurek, Nelson, Norman, Ochsner, O'Hara, Olson, Regan, Ryan, Severson, Smith, Stephens, Stimatz, Story, Thomas, Towe, Tveit, Van Valkenburg, Mr. President.
Total 48

Noes: None.
Total 0

Excused: Galt, McCallum.
Total 2

Absent or not Voting: None.
Total 0

That House Amendments to Senate Bill No. 9 be concurred in by the following vote:

Ayes: Aklestad, Anderson, Berg, Blaylock, Boylan, B. Brown, S. Brown, Conover, Crippen, Dover, Eck, Elliott, Etchart, Goodover, Graham, Hafferman, Haffey, Hager, Halligan, Hammond, Hazelbaker, Healy, Himsl, Jacobson, Johnson, Keating, Kolstad, Lee, Manley, Manning, Mazurek, Nelson, Norman, Ochsner, O'Hara, Olson, Regan, Ryan, Severson, Smith, Stephens, Stimatz, Story, Thomas, Towe, Tveit, Van Valkenburg, Mr. President.
Total 48

Noes: None.
Total 0

Excused: Galt, McCallum.
Total 2

Absent or not voting: None.

Representative Fagg moved that HJR 68, which was reported out of committee today, be placed at the top of the Second Reading board this day. Motion carried.

Representative Fagg moved that the House stand in recess until 1:30 p.m. Motion carried.

House recessed at 11:20 a.m.

House reconvened at 1:35 p.m.

Representative Harrington moved that SB 337 be taken from the Committee on Taxation and placed on Second Reading. Motion carried.

Representative Neuman present at this time.

Representatives Bardanouve, Donaldson, Hemstad, Quilici, and Stobie excused at this time.

FIRST READING AND COMMITMENT OF BILLS AND RESOLUTIONS

The following House bills were introduced, read first time and referred to committees:

HR 6, introduced by Marks. Referred to Committee on Rules.
HR 7, introduced by Marks. Referred to Committee on Rules.
HR 8, introduced by Gould, Spilker, Harper, Metcalf, Marks, Dussault, Donaldson. Referred to Committee on Human Services.

The following Senate bill was introduced, read first time and referred to committee:

SJR 35, introduced by Boylan, Ellerd, Nordtvedt, Eck, Elliott, Sivertsen, Vincent, Manley, Healy, Kolstad, Hazelbaker, Graham, McCallum, Seifert, Halligan, Mazurek, Wallin, P. Ryan, Pavlovich, Manuel, Quilici, Story. Referred to Committee on State Administration.

SECOND READING OF BILLS (COMMITTEE OF THE WHOLE)

Representative Fagg moved that the House resolve itself into a Committee of the Whole, for the consideration of business on Second Reading. Motion carried.

Representative Shontz in the Chair. Committee arose.

House resumed. Mr. Speaker in the Chair.

Mr. Speaker: We, your Committee of the Whole, having had under consideration business on Second Reading, recommend as follows:

That HJR 68 do pass by the following vote:

Ayes: Abrams, Anderson, Asay, Azzara, Bengtson, Bennett, Bergene, Briggs, Brown, Burnett, Conn, Conroy, Curtiss, Devlin, Dozier, Dussault, Ellison, Ernst, Eudaily, Fabrega, Fagg, Feda, Gould, Hannah, Hanson, Harp, Harper, Harrington, Hart, Holliday, Hurwitz, Iverson, Jacobsen, Jensen, Kanduch, Kemmis, Kennerly, Kessler, Keyser, Kitselman, Kropp, Lory, Lund, Manning, Manuel, Marks, Matsko, McBride, McLane, Menahan, Metcalf, Meyer, Mueller, Neuman, Nilson, Nordtvedt, Oberg, O'Connell, O'Hara, Phillips, Pistoria, Roth, Roush, Ryan, Sales, Schultz, Seifert, Shelden, Shontz, Sivertsen, Smith, Spilker, Switzer, Teague, Thoft, Underdal, Vincent, Waldron, Wallin, Williams, Winslow, Yardley, Zabrocki.
Total 83

Noes: Brand, Huennekens, Vinger.
Total 3

Excused: Andreason, Bardanouve, Donaldson, Ellerd, Hemstad, Quilici, Stobie.
Total 7

Absent or not voting: Bertelsen, Cozzens, Daily, Keedy, Moore, Pavlovich, Robbins.
Total 7

Representative Yardley moved that the Governor's Amendments to SB 267 be concurred in. Motion carried by the following vote:

Ayes: Abrams, Anderson, Asay, Azzara, Bengtson, Bergene, Bertelsen, Brand, Briggs, Brown, Conn, Conroy, Curtiss, Devlin, Dozier, Dussault, Ellison, Ernst, Eudaily, Fabrega, Fagg, Feda, Gould, Hanson, Harp, Harper, Harrington, Hart, Holliday, Huennekens, Hurwitz, Iverson, Jacobsen, Jensen, Kanduch, Keedy, Kemmis, Kennerly, Kessler, Keyser, Kitselman, Lory, Lund, Manning, Manuel, Marks, Matsko, McBride, McLane, Menahan, Metcalf, Meyer, Mueller, Neuman, Nilson, Nordtvedt, Oberg, O'Connell, O'Hara, Phillips, Pistoria, Roth, Roush, Sales, Schultz, Seifert, Shelden, Shontz, Sivertsen, Spilker, Switzer, Teague, Underdal, Vincent, Waldron, Wallin, Williams, Winslow, Yardley, Zabrocki.
Total 80

Noes: Burnett, Hannah, Kropp, Moore, Ryan, Vinger.
Total 6

Excused: Andreason, Bardanouve, Donaldson, Ellerd, Hemstad, Quilici, Stobie.
Total 7

Absent or not voting: Bennett, Cozzens, Daily, Pavlovich, Robbins, Smith, Thoft.
Total 7

Representative Ellison moved that the Governor's Amendments to SB 459 be concurred in. Motion carried by the following vote:

Ayes: Abrams, Anderson, Asay, Azzara, Bengtson, Bennett, Bergene, Bertelsen, Brand, Briggs, Brown, Conn, Conroy, Curtiss, Devlin, Dozier, Dussault, Ellison, Ernst, Eudaily, Fabrega, Fagg, Feda, Gould, Hanson, Harper, Harrington, Hart, Holliday, Huennekens, Hurwitz, Iverson, Jacobsen, Jensen, Kanduch, Kemmis, Kennerly, Kessler, Keyser, Kitselman, Lory, Lund, Manning, Manuel, Marks, Matsko, McBride, McLane, Menahan, Metcalf, Meyer, Mueller, Neuman, Nilson, Nordtvedt, Oberg, O'Connell, O'Hara, Phillips, Pistoria, Roth, Roush, Ryan, Sales, Schultz, Seifert, Shelden, Shontz, Sivertsen, Spilker, Switzer, Teague, Underdal, Vincent, Vinger, Waldron, Wallin, Williams, Winslow, Yardley, Zabrocki.
Total 81

Noes: Hannah, Harp, Keedy, Kropp, Moore.
Total 5

Excused: Andreason, Bardanouve, Donaldson, Ellerd, Hemstad, Quilici, Stobie.
Total 7